

House File 277 - Enrolled

PAG LIN

HOUSE FILE 277

1 1
1 2
1 3 AN ACT
1 4 RELATING TO THE DEREGULATION OF COMMUNICATIONS SERVICES
1 5 INCLUDING CONSIDERING MARKET FORCES, ELIMINATING ACCOUNTING
1 6 PLAN REQUIREMENTS, ESTABLISHING ANTITRUST PROCEDURES AND
1 7 REMEDIES, ELIMINATING REPORTING REQUIREMENTS, ELIMINATING THE
1 8 IOWA BROADBAND INITIATIVE, AND PROVIDING A PENALTY.
1 9
1 10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
1 11
1 12 Section 1. Section 476.1D, subsections 1, 2, and 3, Code
1 13 2005, are amended to read as follows:
1 14 1. Except as provided in this section, the jurisdiction of
1 15 the board as to the regulation of communications services is
1 16 not applicable to a service or facility that is provided or is
1 17 proposed to be provided by a telephone utility that is or
1 18 becomes subject to effective competition, as determined by the
1 19 board.
1 20 a. In determining whether a service or facility is or
1 21 becomes subject to effective competition, the board shall
1 22 consider, among other factors, whether a comparable service or
1 23 facility is available from a supplier other than the telephone
1 24 utility in the geographic market being considered by the board
1 25 and whether market forces in that market are sufficient to
1 26 assure just and reasonable rates without regulation.
1 27 b. When considering market forces in the market proposed
1 28 to be deregulated, the board shall consider factors including
1 29 but not limited to the presence or absence of all of the
1 30 following:
1 31 (1) Wireless communications services.
1 32 (2) Cable telephony services.
1 33 (3) Voice over internet protocol services.
1 34 (4) Economic barriers to the entry of competitors or
1 35 potential competitors in that market.
2 1 c. In addition to other services or facilities previously
2 2 deregulated, effective July 1, 2005, and at the election of
2 3 each telephone utility subject to rate regulation, the
2 4 jurisdiction of the board is not applicable to the retail rate
2 5 regulation of business and retail local exchange services
2 6 provided throughout the state except for single line flat=
2 7 rated residential and business service rates provided by a
2 8 telephone utility subject to rate regulation on January 1,
2 9 2005. For each such telephone utility, the initial single
2 10 line flat=rated residential and business service rates shall
2 11 be the corresponding rates charged by the utility as of
2 12 January 31, 2005. The initial single flat=rated residential
2 13 monthly service rates may be increased by an amount not to
2 14 exceed one dollar per twelve=month period beginning July 1,
2 15 2005, and ending June 30, 2008. The initial single flat=rated
2 16 business monthly service rates may be increased by an amount
2 17 not to exceed two dollars per twelve=month period beginning
2 18 July 1, 2005, and ending June 30, 2008. However, the single
2 19 line flat=rated residential service rate shall not exceed
2 20 nineteen dollars per month and the single line flat=rated
2 21 business service rate shall not exceed thirty=eight dollars
2 22 per month prior to July 1, 2008, not including charges for
2 23 extended area service, regulatory charges, taxes, and other
2 24 fees. Each telephone utility's extended area service rates
2 25 shall not be greater than the corresponding rates charged by
2 26 the telephone utility as of January 31, 2005. The board shall
2 27 determine a telephone utility's extended area service rates
2 28 for new extended area service established on or after July 1,
2 29 2005. If a telephone utility fails to impose the rate
2 30 increase during any twelve=month period, the utility shall not
2 31 impose the unused increase in any subsequent year. In
2 32 addition to the rate increases permitted pursuant to this
2 33 section, the telephone utility may adjust its single line
2 34 flat=rated residential and business service rates by a
2 35 percentage equal to the most recent annual percentage change
3 1 in the gross domestic product price index as published by the
3 2 federal government. The board may also authorize additional
3 3 changes in the monthly rates for single line flat=rated
3 4 residential and business services to reflect exogenous factors
3 5 beyond the control of the telephone utility.

3 6 A telephone utility that elects to increase single line
3 7 flat-rated residential or business service rates pursuant to
3 8 this paragraph "c" shall offer digital subscriber line
3 9 broadband service in all of the telephone utility's exchanges
3 10 in this state within eighteen calendar months of the first
3 11 rate increase made pursuant to this paragraph "c" by the
3 12 telephone utility. The board may extend this deadline by up
3 13 to nine calendar months for good cause. The board may assess
3 14 a civil penalty or require a refund of all incremental revenue
3 15 resulting from the rate increase initiated pursuant to this
3 16 paragraph "c" if the telephone utility fails to offer digital
3 17 subscriber line broadband service within the time period
3 18 required by this unnumbered paragraph.

3 19 Effective July 1, 2008, the retail rate jurisdiction of the
3 20 board shall not be applicable to single line flat-rated
3 21 residential and business service rates unless the board during
3 22 the first six calendar months of 2008 extends its retail rate
3 23 jurisdiction over single line flat-rated residential and
3 24 business service rates provided by a previously rate-regulated
3 25 telephone utility. The board may extend its jurisdiction
3 26 pursuant to this paragraph for not more than two years and may
3 27 do so only after the board finds that such action is necessary
3 28 for the public interest. The board shall provide the general
3 29 assembly with a copy of any order to extend its jurisdiction
3 30 and shall permit any telephone utility subject to the
3 31 extension to increase single line flat-rated residential and
3 32 business monthly service rates by an amount up to two dollars
3 33 during each twelve-month period of the extension. If a
3 34 telephone utility fails to impose such a rate increase during
3 35 any twelve-month period, the utility may not impose the unused
4 1 increase in any subsequent year.

4 2 2. ~~Deregulation~~ Except as provided in subsection 1,
4 3 paragraph "c", deregulation of a service or facility for a
4 4 utility is effective only after ~~all of the following:~~
4 5 a. ~~A finding of effective competition by the board.~~
4 6 b. ~~Election by a utility providing the service or facility~~
4 7 ~~to file a deregulation accounting plan.~~
4 8 c. ~~Approval of a utility's deregulation accounting plan by~~
4 9 ~~the board.~~

4 10 3. If the board ~~determines~~ finds that a service or
4 11 facility is subject to effective competition ~~and approves the~~
4 12 ~~utility's deregulation accounting plan~~, the board shall
4 13 deregulate the service or facility within a reasonable time.

4 14 Sec. 2. Section 476.55, Code 2005, is amended to read as
4 15 follows:

4 16 476.55 COMPLAINT OF ANTITRUST ACTIVITIES.

4 17 1. An application for new or changed rates, charges,
4 18 schedules or regulations filed under this chapter, or an
4 19 application for a certificate or an amendment to a certificate
4 20 submitted under chapter 476A, by an electric transmission line
4 21 utility or a gas pipeline utility or a subsidiary of either
4 22 shall not be approved by the board if, upon complaint by an
4 23 Iowa electric or gas utility, the board finds activities which
4 24 create or maintain a situation inconsistent with antitrust
4 25 laws and the policies which underlie them. The board may
4 26 grant the rate or facility certification request once it
4 27 determines that those activities which led to the antitrust
4 28 complaint have been eliminated. However, this subsection does
4 29 not apply to an application for new or changed rates, charges,
4 30 schedules or regulations after the expiration of the ten=
4 31 month limitation and applicable extensions.

4 32 2. Notwithstanding section 476.1D, the board may receive a
4 33 complaint from a local exchange carrier that another local
4 34 exchange carrier has engaged in an activity that is
4 35 inconsistent with antitrust laws and the policies which
5 1 underlie them. For purposes of this subsection, "local
5 2 exchange carrier" means the same as defined in section 476.96
5 3 and includes a city utility authorized pursuant to section
5 4 388.2 to provide local exchange services. If, after notice
5 5 and opportunity for hearing, the board finds that a local
5 6 exchange carrier has engaged in an activity that is
5 7 inconsistent with antitrust laws and the policies which
5 8 underlie them, the board may order any of the following:

5 9 a. The local exchange carrier to adjust retail rates in an
5 10 amount sufficient to correct the antitrust activity.

5 11 b. The local exchange carrier to pay any costs incurred by
5 12 the complainant for the pursuit of the complaint.

5 13 c. The local exchange carrier to pay a civil penalty.

5 14 d. Either the local exchange carrier or the complainant to
5 15 pay the costs of the complaint proceeding before the board,
5 16 and the other party's reasonable attorney fees.

5 17 ~~This subsection shall not be construed to modify, restrict,~~
5 18 ~~or limit the right of a person to bring a complaint under any~~
5 19 ~~other provision of this chapter.~~

5 20 Sec. 3. Section 476.97, subsection 12, Code 2005, is
5 21 amended by striking the subsection.
5 22 Sec. 4. Section 476.98, Code 2005, is repealed.

5 23
5 24
5 25
5 26 _____
5 27 CHRISTOPHER C. RANTS
5 28 Speaker of the House
5 29

5 30
5 31 _____
5 32 JEFFREY M. LAMBERTI
5 33 President of the Senate

5 34 I hereby certify that this bill originated in the House and
5 35 is known as House File 277, Eighty-first General Assembly.

6 1
6 2
6 3
6 4 _____
6 5 MARGARET THOMSON
6 6 Chief Clerk of the House

6 6 Approved _____, 2005

6 7
6 8
6 9 _____
6 10 THOMAS J. VILSACK
6 11 Governor